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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of

Federal-State Joint

Board on Universal Service

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CC Docket No. 96-45

**COMMENTS OF THE COMMONWEALTH  
OF THE NORTHERN MARIANA ISLANDS**

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## **SUMMARY OF COMMENTS**

Access to advanced telecommunications and information services is of critical importance to U.S. citizens in the Commonwealth. The Commonwealth is disadvantaged by a remote geographic location--it is located approximately seven and one half hours west of Hawaii by air. Since travel to and from the Commonwealth is both time consuming and expensive, and since mail and package services are slowed by distance, telecommunications has become the central means of immediate contact with the mainland U.S. For this reason, the instant proceeding is of significant importance to U.S. citizens in the Commonwealth.

In its Comments, the Commonwealth of the Northern Mariana Islands ("Commonwealth") demonstrates that the Commonwealth must be encompassed in the Commission's universal service mechanism. Section 254 of the 1996 Act states, in part, that "[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, *insular* and high cost areas, should have access to telecommunications and information services" (emphasis added). The Joint Explanatory Statement of the Committee of Conference clarifies beyond doubt that the Section 254 universal service mechanism applies to the Commonwealth by stating that the term "insular areas" includes the Pacific Island territories. The Commonwealth, however, also satisfies the other criteria of Section 254: it is rural; it is a high cost area and its consumers are low income (the average *per capita* income of the Commonwealth's residents was a mere \$7,581 in 1991). However, to eliminate any doubt, the Commonwealth requests that the Commission make expressly clear in its decision in this matter that the universal service mechanism applies to the Commonwealth.

As shown below, the Commonwealth urges the Commission to implement universal service support in a manner which fully and fairly includes the Commonwealth. The Commonwealth supports extending universal service support for insular, rural and high-cost areas to the services specified in the Commission's Notice as well as to two additional services, i.e., toll free 800 services and access to on-line information services (including the Internet). The Commonwealth believes that "affordability" must be determined from the standpoint of the consumer, taking into account both *per capita* income levels and existing telecommunications cost levels. Both residential and business customers should be eligible for support, and the universal service subsidy should be calculated in a manner which does not discriminate against the Commonwealth. Finally, the Commonwealth supports additional support for low-income consumers in the form of reduced toll service deposits and free (or substantially reduced) toll-limitation services.

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**COMMENTS OF THE COMMONWEALTH  
OF THE NORTHERN MARIANA ISLANDS**

The Commonwealth of the Northern Mariana Islands ("Commonwealth"),<sup>1</sup> by its attorneys, respectfully submits the following comments in response to the Commission's Notice of Proposed Rulemaking and Order Establishing Joint Board ("Notice"), adopted and released on March 8, 1996 in the above-captioned matter.<sup>2</sup>

**I. INTRODUCTION**

The Commonwealth consists of 14 islands strategically located in the North Pacific Ocean approximately 3,300 miles west of Honolulu, 1,200 miles southeast of Tokyo and 50 miles north

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<sup>1</sup> The instant Comments are filed by the Office of the Governor and concurred in by the Office of the Resident Representative ("Resident Representative"). On April 8, 1996, the Resident Representative filed independent Comments with the Commission in this matter. Subsequently, after consultation with the Office of the Governor, the Resident Representative agreed to participate in and concur in the instant filing. Accordingly, on April 12, 1996, the Resident Representative filed a motion with the Commission to withdraw the Comments it had filed on April 8, 1996.

<sup>2</sup> Comments were originally due by April 8, 1996; however, the Commission extended the deadline for filing comments to April 12, 1996. See Order, CC Docket No. 96-45, released April 1, 1996.

of the Territory of Guam ("Guam"). The total land area of the Commonwealth is slightly larger than 2.5 times the size of the District of Columbia.<sup>3</sup> The populated islands of the Commonwealth (i.e., Saipan, Tinian and Rota) have a total population of 43,345 according to the 1990 United States census. Estimates for 1994 reflect ongoing growth and place the population at 56,656 persons.<sup>4</sup>

The Commonwealth is a self-governing commonwealth in political union with and under the sovereignty of the United States. The relationship between the Commonwealth and the United States is governed by the "Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America."<sup>5</sup> Among other things, the Covenant provides that persons born in the Northern Mariana Islands both before and after it took effect are citizens of the U.S.<sup>6</sup> Subject to certain exceptions, federal law applies to the Commonwealth.<sup>7</sup>

The Commonwealth is one of only three U.S. territories that are not yet members the North American Numbering Plan ("NANP"). The Commonwealth is presently situated in World Numbering Zone 6 along with a number of other countries in the Southern Pacific, including

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<sup>3</sup> Central Intelligence Agency, World Factbook (1993) at 290.

<sup>4</sup> A Report on the State of the Islands, U.S. Department of the Interior, Office of Insular Affairs, Aug. 1995, at 27.

<sup>5</sup> See 48 U.S.C. §1801 note (Supp. 1995), approved by Congress in Public Law 94-241 (March 24, 1976), 90 Stat. 263 ("Covenant"). The Covenant was entered into following a plebiscite held under the United Nation's supervision in which the residents of the Commonwealth voted to enter into political union with the United States as a commonwealth.

<sup>6</sup> Covenant at §301.

<sup>7</sup> A Report on the State of the Islands at 27.

Australia, New Zealand, the Republic of Singapore, and Thailand, among others. Whereas calls within the NANP can be placed by dialing "1+" the area code and seven digit number, calls between the Commonwealth and the U.S., as well as other NANP destinations, must be placed using the international dialing pattern, "011". This necessitates use of an awkward thirteen-digit dialing protocol, as well as the relatively expensive and potentially confusing international routing of the Commonwealth's telecommunications traffic. Additionally, the Commonwealth is not listed in NANP telephone books as a domestic point.<sup>8</sup>

Another cause of the Commonwealth's isolation, however, is the high prices that its businesses and consumers currently pay for telecommunications services to and from the U.S. mainland. The Commonwealth is one of only three U.S. points which have not yet been rate integrated.<sup>9</sup> Instead, international ratemaking principles are currently applied to calls between the Commonwealth and mainland U.S., and rates for off-island, domestic calls are therefore as much as five times higher than the rates charged for calls in the highest rate band between U.S. points included within rate integration.<sup>10</sup> As a result, Commonwealth residents are deprived of

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<sup>8</sup> The Commonwealth (along with Guam) has applied for membership into the NANP before the Industry Numbering Committee ("INC") of the North American Numbering Plan Administrator, and there are clear indications that its application will be approved within the very near future. The Commonwealth's pending application before the INC is strongly supported by the Commission, the U.S. Department of State, and the U.S. Department of Interior. Inclusion within the NANP will allow consumers to use standard 1+ dialing when making long distance calls to or from the Commonwealth, avoid the inefficiencies of international call routing, and facilitate the Commonwealth's inclusion within the U.S. 1-800 toll free network.

<sup>9</sup> The two other U.S. points without rate integration, Guam and American Samoa, are also U.S. Pacific territories. By contrast, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Alaska and Hawaii have all been incorporated into the domestic U.S. rate plan.

<sup>10</sup> Micronesian Telecommunications Corporation ("MTC"), a subsidiary of GTE, is the local exchange carrier which serves the Commonwealth and is the predominant provider of off-island services. MTC's direct-dialed rates are \$1.85 for the first minute and \$1.55 for each

certain telecommunications services available to other Americans and are charged far more for those that are available. Such treatment has inhibited the free flow of telecommunications traffic between the Commonwealth and the mainland U.S. and has adversely affected the Commonwealth's residents, economy, and integration with the rest of the nation.

To rectify this unlawfully discriminatory treatment of Commonwealth ratepayers, on June 7, 1995 the Commonwealth filed a petition with the Commission requesting inclusion in the rate integration system used in the mainland U.S.<sup>11</sup> Since its petition was filed, the Telecommunications Act of 1996 ("1996 Act")<sup>12</sup> mandated rate integration for the Commonwealth. In CC Docket No. 96-61, the Commission has explicitly recognized that the

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additional minute for direct-dialed daytime calls (Tues. - Fri.) for Message Toll Telephone Service between the Commonwealth and U.S. mainland (excluding Alaska). See MTC Tariff F.C.C. No. 1, 3rd. Original Page 16B, dated February 1, 1996. By contrast, U.S. Sprint charges \$0.35 for the first minute and \$0.35 for each additional minute for direct-dialed daytime calls for MTS service to locations within the contiguous U.S. up to 4,251 miles apart. See U.S. Sprint F.C.C. No. 1, page 168. Thus, a 15 minute call from the Commonwealth to a contiguous U.S. domestic point could cost \$23.55 under the MTC tariff, as opposed to \$5.25 under the Sprint tariff. While it is difficult to compare MTC's rates with those of domestic U.S. carriers, suffice it to say that MTC's charges for calls between the Commonwealth and the mainland are several magnitudes higher than typical rates for calls between domestic, contiguous points. Indeed, this was generally the case for calls between Hawaii and Alaska and the mainland U.S. (where rates were approximately twice as high) before rate integration was implemented for these points.

<sup>11</sup> See Petition for Rulemaking to Implement Domestic Rate Integration for the Commonwealth of the Northern Mariana Islands, filed June 7, 1995 (which contains additional background on telecommunications in the Commonwealth). Similar petitions requesting that Guam be integrated into the domestic rate plan were filed by the Governor's Office of the Territory of Guam (see Rate Integration for the Provision of Communication between the United States Mainland, Hawaii, Alaska, Puerto Rico/Virgin Islands and Guam, filed May 9, 1995) and JAMA Corporation (see Petition for Rulemaking to Implement Domestic Rate Integration Policies for Guam, filed May 1, 1995). The Commission placed the petitions on public notice last summer. See, e.g., Public Notice, DA 95-1361, released June 16, 1996.

<sup>12</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996)(to be codified at 47 U.S.C. §§ 151 et seq.).

1996 Act applies rate integration to the Commonwealth.<sup>13</sup> According to the Commission, the Commonwealth's petition would become moot once rules implementing Section 254(g) of the Act are adopted.<sup>14</sup>

The Commonwealth applauds the objectives of the instant proceeding. Universal service is a fundamental telecommunications legal and policy goal which also extends and applies to the Commonwealth. As the Commission has stated:

For the individual, telephone connectivity provides access to emergency services, to job opportunities and, through computer connections, to a host of educational opportunities. At the same time, increasing subscribership benefits all Americans by improving the safety, health, education and economic well-being of the nation. Thus, we recognize that our universal service policies may now have greater societal consequences than in the past.

Notice at ¶ 4. The universal service objective is important to the Commonwealth for all of the reasons recognized by the Commission. Steps to increase subscribership in the Commonwealth will facilitate closer economic, social and political ties with the contiguous U.S. Indeed, the U.S. government has a special obligation to assist the Commonwealth in achieving economic development under the Covenant. According to Section 701 of the Covenant,

The Government of the United States will assist the Government of the Northern Mariana Islands in its efforts to achieve a progressively higher standard of living for its people as part of the American economic community and to develop the economic resources needed to meet the financial responsibilities of local self-government.

Increasing subscribership is also of particularly unique importance to the Commonwealth not only because of its historically low telephone subscribership levels,<sup>15</sup> but also due to its

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<sup>13</sup> See Notice of Proposed Rulemaking, In the Matter of Policy and Rules Concerning the Interstate, Interexchange Marketplace, CC Dkt. No. 96-61 (released March 25, 1996) at ¶ 77.

<sup>14</sup> Id. at n.170.

<sup>15</sup> See infra at 9-11.

remote geographic location and consequently greater dependence upon telecommunications to interconnect with the contiguous U.S. Since travel to and from the Commonwealth is both time consuming and expensive, and since mail and package services are slowed by the distance they must travel, telecommunications services are the Commonwealth's one means of immediate contact with mainland (and other off-shore) points.

The Commonwealth therefore urges the Commission to take swift and effective measures to execute the universal service objectives laid out in Section 254 of the 1996 Act and restated in the Notice. Based on the 1996 Act, it is clear that the Commission must include the Commonwealth in those mechanisms it creates in the current docket to improve the Commonwealth's access to telecommunications services.

## **II. THE COMMONWEALTH MUST BE ENCOMPASSED IN THE COMMISSION'S UNIVERSAL SERVICE MECHANISM**

In its Notice, the Commission seeks comment on the universal service principles enumerated in Section 254(b) of the 1996 Act. Notice at ¶¶ 3-12. The Commonwealth supports the Commission's acknowledgment that "our goal should be to ensure that consumers in 'all regions of the Nation' [footnote omitted] and at all income levels, including low-income consumers, enjoy affordable access to the range of services available to urban consumers generally." Id. at ¶ 6. Without question, this would include the Commonwealth.

The 1996 Act makes clear that the Section 254 universal service principles, and any universal service mechanism established pursuant to those principles, encompasses the Commonwealth. As Section 254(b)(3) states:

ACCESS IN RURAL AND HIGH COST AREAS.--Consumers in all regions of the Nation, including low income consumers and those in rural, insular and high

cost areas, should have access to telecommunications and information systems, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.<sup>16</sup>

Section 254 is clear on its face that the universal service mechanisms that will be established under it shall apply to "[c]onsumers in all regions of the Nation...." As a commonwealth of the U.S. whose citizens are U.S. citizens (see supra at 2), the Commonwealth is unquestionably one of regions of the Nation to which the provision must apply. This is supported by the emphatic Congressional intent that all Americans obtain the benefits of advanced telecommunications and information technologies.<sup>17</sup>

However, to the extent that there may have been any doubt as to what the phrase "all regions of the Nation" may mean, Section 254 specifically identifies "insular" areas as being covered. The Joint Statement expressly clarifies that the term "insular areas" includes the "Pacific Island territories", which, of course, encompasses the Commonwealth.<sup>18</sup>

In addition, the Commonwealth agrees with the Commission's statement that implementation of Section 254(b)(2) of the 1996 Act requires that persons at all income levels in all areas of the nation should have "access to advanced telecommunications and information services." Id. at ¶ 6. It should also be noted that consumers in the Commonwealth are "low

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<sup>16</sup> 1996 Act, H.R. Conf. Rep. 104-558, 104th Cong., 2nd Sess., at 18 (1996).

<sup>17</sup> Notice at ¶ 6, citing S. Conf. Rep. No. 104-230, 104th Cong., 2nd Sess. 1 (1996). As the Joint Explanatory Statement of the Committee of Conference ("Joint Statement") additionally stated, universal access to telecommunications services is intended to "assure that no one is barred from benefitting from the power of the Information Age." See Joint Statement, H.R. Conf. Rep. 104-558, 104th Cong., 2nd Sess., at 132-133 (1996).

<sup>18</sup> Joint Statement at 131.

income consumers" and the Commonwealth is a "high cost area." See infra at 8-11. Section 254(b)(3) clearly intends that its provisions extend to these groups and areas.

Without universal service support, U.S. citizens in the Commonwealth will otherwise be unable to access a comparable level of affordable telecommunications services, causing them to be left economically and socially isolated from the mainland U.S. (and even from social groups locally within the Commonwealth). Given the historical ambiguity regarding the extent to which the Commission's general policies have applied to the Commonwealth prior to passage of the 1996 Act, the Commonwealth requests that the Commission make expressly clear in its decision in this matter that the universal service mechanism applies to the Commonwealth.

### **III. IMPLEMENTATION OF UNIVERSAL SERVICE SUPPORT IN THE COMMONWEALTH**

As shown below, the Commonwealth urges the Commission to implement universal service support in a manner which fully and fairly includes the Commonwealth. The Commonwealth supports extending universal service support (for insular, rural and high-cost areas) to the services specified in the Commission's Notice as well as to two additional services, i.e., toll free 800 services and access to on-line information services (including the Internet). The Commonwealth believes that "affordability" must be determined from the standpoint of the consumer, taking into account both *per capita* income levels and existing telecommunications cost levels. As shown below, both residential and business customers should be eligible for support, and the universal service subsidy should be calculated in a manner which does not discriminate against the Commonwealth.

Finally, the Commonwealth believes that additional services for low-income consumers

should also receive universal service support. In particular, the Commonwealth favors free (or substantially discounted) toll blocking services combined with substantially reduced service deposits.

**A. "Affordable" Communications Services Are  
Not Currently Available Within the Commonwealth**

To the extent that any U.S. point is in need of universal service support, it is the Commonwealth. In the Commonwealth, telecommunications costs to consumers are among the highest in the nation. On the other hand, *per capita* income and the telephone penetration rate are among the lowest in the nation.

According to statistics developed by the U.S. Department of Interior, the average *per capita* income of the Commonwealth's citizens was a mere \$7,581 in 1991.<sup>19</sup> This figure is considerably less than the average income for persons within the mainland United States, which was \$19,234 for the same period.<sup>20</sup>

On the other hand, telecommunications service costs are extraordinarily high in the Commonwealth. Much of this expense is attributable to the application of international ratemaking practices to long-distance calls between the Commonwealth and off-island points, including the contiguous United States.<sup>21</sup> The application of international rates forces Commonwealth ratepayers to pay charges which are several times higher than domestic interstate rates for comparable distances and services. In addition, Commonwealth ratepayers pay unusually

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<sup>19</sup> A Report on the State of the Islands, *supra*, at 126.

<sup>20</sup> Id.

<sup>21</sup> See supra at 2-4.

high carrier access charges.<sup>22</sup> Finally, even though international rates for off-island calls are charged to Commonwealth ratepayers, such ratepayers are also assessed domestic subscriber line charges.<sup>23</sup> In short, the mixed domestic/international treatment afforded Commonwealth ratepayers has resulted in extraordinarily high telecommunications costs, probably the highest in nation, being assessed to ratepayers whose income level ranks among the lowest in the nation.<sup>24</sup>

The net effect of high telecommunications rates and low *per capita* income levels is, not surprisingly, a low subscribership level. According to 1990 Commonwealth government figures, only 66.8% of the population has a telephone.<sup>25</sup> The figure is even lower according to MTC's own estimates, which using 1993 Commonwealth statistics placed the penetration rate at 27.6%.<sup>26</sup> Such depressed figures lag far behind the average for the mainland United States,

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<sup>22</sup> GTE's carrier access charges in the Commonwealth are by far the highest among GTE's operating companies, and appear to be the highest in the nation. For example, GTE's terminating premium carrier common line ("CCL") charge in the Commonwealth is \$0.0835754 per minute, which is 7.66 times higher than GTE's rate in Alaska and 3.3 times higher than its next highest rate, which is for the state of Texas. See GTE Telephone Operating Companies Tariff F.C.C. No. 1, effective August 1, 1995, at 38th Revised Page 308.3.9. GTE's Premium Switched Transport Interconnection ("PSTI") Rate for the Commonwealth is 3.5 times greater than the next highest PSTI rate, which is for the state of Idaho. Id. at 12th Revised Page 142.1.2. GTE's Premium End Office Switching ("PEOS") charge is double the next highest PEOS rate, which is for the state of Alaska. Id. at 58th Revised Page 144.

<sup>23</sup> Specifically, on January 1, 1995, a multi-line business SLC of \$6.00 per line and a single-line business/residential SLC of \$3.50 took effect. See Transmittal No. 783.

<sup>24</sup> Moreover, given the high international rates assessed for off-island calls, many subscribers are unable to pay their toll bills, and end up being disconnected from the telephone network altogether for non-payment. Given their low income levels and the high deposits to be reconnected, such subscribers are often unable to reestablish telephone service. See infra at 19.

<sup>25</sup> 1993 Commonwealth of the Northern Mariana Islands Statistical Yearbook, Central Statistics Division, Department of Commerce and Labor, at 78.

<sup>26</sup> Letter from Robert Enfield, General Manager of MTC, to Nicholas Strauss, Assistant to the Commonwealth Governor (Attachment 1, Response 1)(July 11, 1994).

which approaches 90%.<sup>27</sup>

Clearly, Commonwealth ratepayers are in dire need of universal service support.

**B. A Range of Telecommunications Services  
Must Receive Universal Service Support**

In its Notice, the Commission seeks comment on which services should be included among those "core" services that should receive universal service support for insular, rural and high-cost areas. Notice at ¶¶ 16-17. As discussed below, the Commonwealth believes that the specific services that the Commission is tentatively proposing to include among the core services should receive universal service support. Further, to guarantee a "comparable" level of services with urban areas, the Commonwealth believes that toll-free 800 services and access to on-line information services should also receive universal service support.<sup>28</sup> Although not addressed in the instant Comments, the Commonwealth believes that an equally important step to facilitating universal service will be incorporating the Commonwealth into the domestic rate plan.<sup>29</sup>

To promote universal service in the Commonwealth, it is crucial that the Commonwealth

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<sup>27</sup> In a past proceedings regarding universal service, the Commission has noted that only three states have subscribership levels less than 90%. These three states are Mississippi (88.6%), New Mexico (88.3%) and South Carolina (89.4%). See Notice of Proposed Rulemaking (FCC No. 95-281), CC Dkt. No. 95-115 (released July 20, 1995) at paragraph 1, note 3.

<sup>28</sup> The Commission has expressly recognized that the Act calls for a broad range of telecommunications services, not just exchange services, to receive universal service support. Notice at ¶ 14.

<sup>29</sup> As indicated supra at 4-5, the Commission has explicitly recognized that the 1996 Act applies rate integration to the Commonwealth. Integrating rates for calls between the Commonwealth and the contiguous U.S. into the domestic rate plan will result in substantially reduced rates for calls between the Commonwealth and the rest of the nation. The Commonwealth, therefore, believes that rate integration will facilitate and promote universal service in the Commonwealth. The Commonwealth intends to address the rate integration issue in further detail in its comments in CC Dkt. No. 96-61.

have access either to the same range of telecommunications services available in non-insular areas or to a comparable equivalent. Read together, Section 254(b)(1)'s provision that "quality services should be available at just and reasonable rates" and Section 254(b)(2)'s provision that "access to advanced telecommunications and information services should be provided in all regions of the Nation" require that the Commonwealth's residents receive more than a rudimentary "lifeline" of services to the mainland United States.<sup>30</sup> Universal service support for a broad array of both of "core" and advanced telecommunications services is therefore highly desirable as a matter of public policy, since it will be critical to efforts to both implement the Act as well as better integrate the Commonwealth with the mainland.

As the Commission tentatively concludes in its Notice, the Commonwealth believes that the "core" of services receiving universal service support should include voice grade network access, touch tone dialing, single party service, emergency services, and access to operator services. Notice at ¶¶ 15-23. Voice grade access is clearly necessary for direct calling into the network, and will be essential for the use of on-line information services such as the Internet. Id. at ¶ 18. Touch tone dialing has almost wholly supplanted pulse dialing in most areas of the U.S., and is required for callers to be able to use automated information systems such as phone mail and banking services. Id. at ¶ 19. Single party service is required for the use of on-line information services, lengthy business or personal transactions, or public safety emergencies, each of which require uninterrupted individual use of a telephone line. Id. at ¶ 20. Emergency services, which should include enhanced "911" service, are so widely and successfully used that they have become essential to public health and safety. Id. at ¶ 21. Similarly, public dependence

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<sup>30</sup> 1996 Act, supra, at 17.

upon the availability of operator services requires their inclusion for universal service support. Id. at ¶¶ 18-22.

In addition to the above, two additional services, at least in the case of the Commonwealth, must also receive universal service support in order that such services can be made available at affordable rates. First, the Commonwealth believes that reasonable service parity with urban areas requires that insular areas such as the Commonwealth receive universal service support for toll-free access to 800 services. Although Commonwealth ratepayers can presently dial 800 numbers, most calls are not toll-free to the customer since the customer must pay for the international connection to the 800 number.<sup>31</sup> The international charges are sufficiently expensive that in aggregate Commonwealth residents pay similar amounts for "toll-free" calls as they do for regular international long-distance calls, which clearly discourages their use. Since true toll free 800 service is available virtually without exception in urban areas throughout the U.S., it similarly should be available in the Commonwealth. Universal service support, to the extent necessary, will eliminate this disparity and allow Commonwealth consumers and businesses to enjoy the same toll-free services as are available in the mainland.

Second, the Commonwealth believes that universal support should be provided for on-line information services. The use of services such as the Internet is expanding rapidly and will continue to grow as inexpensive rates and innovative uses stimulate further use by businesses and consumers. The Internet has already become part of the nation's economic, social, and political

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<sup>31</sup> Only a few companies and services have been willing to include the Commonwealth in their calling area to date, due to the high cost of the international calls. As a result, only the portion of the call within the contiguous U.S. is generally toll-free. See MTC Saipan - Tinian - Rota Telephone Directory, Call Guide 16 (1995).

life, and its importance will only increase.<sup>32</sup> Since Commonwealth residents must pay expensive international calling rates to access the Internet in locations in the contiguous U.S. and most other information services (in addition to standard subscribership and usage fees), most information services are presently too expensive for most Commonwealth residents to use with any frequency. For callers in the contiguous U.S. (including in urban areas), such connection charges are relatively inexpensive -- or, in some cases, free. The increasingly heavy use of on-line information services, as well as their already proven social utility demonstrates that it is strongly within the public interest that the services receiving universal service support include these "advanced" services, lest areas such as the Commonwealth be isolated from the evolving mainstream of the telecommunications market.

**C. "Affordability" Must Be  
Determined From the Consumer Perspective**

The Commission's Notice seeks comment upon the manner in which universal service support should be determined in insular, rural and high-cost areas. Notice at ¶¶ 25-26. The Commonwealth believes that universal service support should be based upon the consumer perspective, taking into account both *per capita* income and telecommunications costs in a given area.

As the Notice recognizes, Section 254(b)(3) requires rates for services in insular, rural, and high cost areas to be reasonably comparable to rates charged for similar services in urban

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<sup>32</sup> Use of on-line services has become so widespread that major telecommunications carriers now offer forms of Internet access as part of their array of basic long distance service offerings. For example, in February of 1996, AT&T announced that it would offer its long distance customers up to five hours of free Internet access a month for a one year period, combined with free World Wide Web browser software and technical support. AT&T Offers Customers Internet Access, Telecommunications Reports, March 4, 1996, at 23-24.

areas of the country. *Id.* at ¶ 25. Moreover, Section 254(i) charges the Commission with responsibility for assuring that service rates are "just, reasonable and *affordable*" (emphasis added).<sup>33</sup> *Id.* These statutory provisions clearly require that specific end user prices be achieved (*i.e.*, such that they are comparable to rates in urban areas), and that such rates be affordable to end users relative to their purchasing power or *per capita* income.

The only practical way in which to read these two complementary provisions is such that the Commission has a duty to examine 1) the *per capita* income levels of a given state or territory (or region); and 2) its telecommunications costs. These two factors should then be considered in determining the level of support necessary to achieve specific and affordable end user prices. While Section 254(b)(3) establishes a general requirement for comparable rates, Section 254(i) clearly goes beyond this to require that rates be affordable to consumers. The only way to give meaning to the word "affordable"<sup>34</sup> is to read it as requiring that the Commission provide those areas with the greatest need for universal service support (*i.e.*, such as the Commonwealth) with the greatest level of support. Since the Commonwealth has one of the lowest *per capita* income levels in the U.S. and costs that are among the highest, it is appropriate for the Commission to ensure that universal service support is provided such that service is affordable from a purchasing power standpoint. In the case of the Commonwealth, this could mean that support is actually designed to achieve rates which are lower than rates in urban areas

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<sup>33</sup> According to the Commission, "[t]he 1996 Act makes explicit that our universal service policies should promote affordability of quality telecommunications services." *Notice* at ¶ 14.

<sup>34</sup> The two factors which the Commonwealth proposes that the Commission utilize reflects the definition of the term "afford" contained in the *Notice*. See *Notice* at ¶ 4, n. 12.

(which will have much higher *per capita* incomes). Any construction which does not interpret these provisions in this manner would undermine the plain meaning of Sections 254(i) and 254(b)(3).

**D. Both Residential and Business Services  
Should Receive Universal Service Support**

In its Notice, the Commission seeks comment on which "consumers" should be beneficiaries of universal service support in insular, rural and high-cost areas. Id. at ¶ 11. The Commonwealth urges that the Commission include both residential and business ratepayers within the definition of "consumers," and extend the benefits of universal service support equally to both groups.

The Commonwealth's geographic isolation forces both its consumers and its businesses to rely upon high cost interexchange services to a far greater extent than their mainland counterparts. Businesses and residential customers therefore suffer equally from the high cost of telecommunications in the Commonwealth, and both will benefit significantly from universal service support.

The Commission should not allow any significant disparity to develop between its level of universal service support for residential and commercial telecommunications services. As a result, both residential and business customers should receive the benefits of universal service support.

**E. The Universal Service Subsidy Must Be  
Calculated in a Nondiscriminatory Manner**

The Commission's Notice seeks comment on how the subsidy should be calculated in insular, rural and high-cost areas. Notice at ¶¶ 27-39. The Commonwealth urges the

Commission to ensure that the subsidy is calculated in a manner that does not exclude, nor otherwise underallocate support to, the Commonwealth.

The Commission should be on guard against universal service proposals which either omit the Commonwealth and other territories or afford a reduced level of support for telecommunications services. Any system of universal service subsidies which either excludes the Commonwealth or treats it as different from any other domestic point should be considered suspect and potentially discriminatory. As the Commission itself has stated in the past, "...a rate structure that uses different ratemaking methods to determine the rates that different users pay for comparable services is inconsistent with the national policy prohibiting unjust or unreasonable rate discrimination...."<sup>35</sup>

For this reason, the Benchmark Cost Model ("Model") developed by MCI Telecommunications Corporation, The NYNEX Telephone Companies, Sprint Corporation and U S West Inc. ("Joint Sponsors"), is flawed in that it does not consider insular areas such as the Commonwealth (not to mention the other territories) which are most in need of universal service assistance.<sup>36</sup> The Commonwealth concurs with the Model's conclusion that, for the purpose of identifying high cost areas, excluding business lines should have a *de minimus* effect.<sup>37</sup> As indicated supra at 16, however, it is important to remember that both business and residential

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<sup>35</sup> Integration of Rates and Services, 50 Fed. Reg. 41714, 41716 (Oct. 15, 1985).

<sup>36</sup> This is the case despite the fact that the Model, by its own terms, is designed to "identify areas where cost of service can reasonably be expected to be so high as to require explicit high cost support for the preservation of universal service." Joint Sponsors, Model, Dec. 1, 1995, Executive Summary at I-2. As shown supra at 8-9, the Commonwealth is clearly such a high cost area.

<sup>37</sup> Model at I-2.

customers in the Commonwealth are in need of support. Finally, inclusion of the Commonwealth and the territories in the Model requires that the necessary data be available *vis-a-vis* the Commonwealth and territories. The Commonwealth believes that such data should be available from the local exchange carrier which serves the Commonwealth. If the Commission is inclined to utilize the Model, it should first be recalibrated to accommodate the unique conditions and universal service needs of the Commonwealth and the territories.

The Commonwealth also has serious concerns regarding a competitive bidding approach to set the level of subsidies for insular, rural and high cost areas.<sup>38</sup> *Id.* at ¶¶ 35-37. This model will likely work only in competitive markets served by at least several telecommunications providers. These markets, however, are likely to least need universal service support. On the other hand, less competitive markets (such as the Commonwealth), are unlikely to have more than a single monopoly service provider. Although these would be the very markets where universal service support will be needed the most, competitive bidding would be absolutely of no utility in these markets.<sup>39</sup> In short, absent special considerations for non-competitive markets such as the Commonwealth, the Commonwealth is opposed to a competitive bidding approach for establishing universal service support.

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<sup>38</sup> Under such an approach, carriers offering all of the services supported by universal service mechanisms would bid on the level of assistance per line that they would need to provide all supported services. Notice at ¶ 20. The lowest bidder would be the winning carrier.

<sup>39</sup> As the Notice recognizes, "(W)e acknowledge that market conditions may not warrant the introduction of the plan at present." Notice at ¶ 37. While local exchange competition is emerging in some contiguous U.S. markets, it may never emerge in other markets which desperately require universal service support. To the extent that any support methodology is predicated upon competitive bidding, that methodology will be fatally flawed to the extent that competition is not present immediately in all markets.

**F. Additional Support for Low-Income Consumers**

In its Notice, the Commission also seeks comment on whether additional services for low-income consumers should receive universal service support. Notice at ¶ 50. The Commonwealth fully supports additional support for low-income consumers.

The Commonwealth endorses universal service support for toll limitation services, reduced service deposits and free access to telephone service information. See id. at ¶¶ 51-56. However, given the high cost of off-island calls, the need for toll limitation services and reduced service deposits is particularly acute in the Commonwealth.

The Commonwealth strongly concurs with the recent studies cited by the Commission which show that disconnection for the non-payment of toll charges, combined with the high deposits carriers charge to cover the cost of reconnecting such subscribers, are significant barriers to universal service. See id. at ¶ 56.<sup>40</sup> The interaction between these two events is all too common in the Commonwealth. Because of the excessively high cost of off-island calls,<sup>41</sup> Commonwealth ratepayers all too often find their local service disconnected for non-payment of toll charges. Because of the low income levels of Commonwealth residents, they are often unable to afford the high deposits necessary to reconnect service, including local service. As a result, many ratepayers end up without any local service whatsoever. The Commonwealth believes that basic local telephone service is essential to public health and safety, and that the insidious

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<sup>40</sup> See, e.g., Amendment of the Commission's Rules and Policies to Increase Subscriberhip and Usage of the Public Switched Network, 10 FCC Rcd 13003 (1995) at ¶ 22 ("[o]nce subscribers have been disconnected, installation charges may create a significant barrier to reconnection [footnote omitted]. The combination of delinquent bills and high up-front deposits keeps involuntarily disconnected low-income persons off the network.").

<sup>41</sup> See supra at 9-11.

interaction between disconnection for non-payment of toll charges combined with high service deposits (particularly in the Commonwealth) jeopardizes the public health and safety.<sup>42</sup>

Accordingly, the Commonwealth believes that toll blocking services should be made available either free of charge or at a substantial discount (particularly in the Commonwealth where toll services are extremely expensive). In addition, the Commonwealth also favors substantially reduced service deposits.

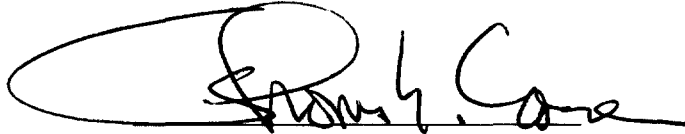
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<sup>42</sup> Free or discounted toll limiting service and reduced deposits for local telephone service clearly meet all four criteria set forth in Section 254(c) of the 1996 Act. See Notice at ¶ 58. Clearly, subscribership levels will be higher if universal support is provided for these services. Increased subscribership will in turn result in significant social benefits to the residents of the Commonwealth, as described below. Subsection 254(c)(1)(A) requires that the first factor the Joint Board shall consider in its universal service support decisions is the extent to which particular services "are essential to education, public health, or public safety...." 1996 Act, supra, at 18. Subsection 254(c)(1)(D) additionally requires that such services be found "consistent with the public interest, convenience, and necessity." Id. The increased subscribership that will result from including toll-limiting service and reduced deposits within the universal service mechanism will give a maximum number of citizens the ability to summon emergency medical help, police protection and other public safety services as well as to avail themselves of educational opportunities, including distance learning and on-line educational materials. Improving public access to such services therefore satisfies both subsections 254(c)(1)(A) and (D). Subsection 254(c)(1)(B) requires that the Joint Board also consider the extent to that services which have been proposed for universal service support "have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers...." Id. Subsection 254(c)(1)(C) additionally requires that such services "are being deployed in public telecommunications networks by telecommunications carriers...." Id. The Commonwealth believes that toll-limiting service clearly meets both criteria in that a substantial majority of customers either have access to such services or that they are readily provided and deployed throughout the country by telecommunications carriers.

#### IV. CONCLUSION

As demonstrated above, the Commonwealth urges the Commission to expressly recognize that the 1996 Act encompasses the Commonwealth within the universal service support mechanism. Moreover, in implementing universal service support, the Commission must implement universal service support in a manner which fully and fairly encompasses the Commonwealth.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas K. Crowe", written over a horizontal line.

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